

**REMARKS**

Claims 1-11 were pending in the present application. By virtue of this response, claim 6 has been cancelled, claims 1 and 7-9 have been amended, and new claim 12 has been added. Accordingly, claims 1-5 and 7-12 are currently under consideration. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. No new matter has been added.

**Rejections under 35 U.S.C. §112, first paragraph**

Claim 2 is rejected as allegedly failing to agree with Figure 1D, where the active layer 12 is on layer 11, rather than on GaAs substrate 10.

With this Response, claim 1 has been amended to recite, in part: a semiconductor light emitting element of a monolithic structure including a first-conductivity-type clad layer formed on the first-conductivity-type semiconductor substrate; an active layer formed on the first-conductivity-type clad layer; and a second-conductivity-type clad layer formed on the active layer. Figure 1D illustrates an embodiment of semiconductor light emitting element including an active layer 12 formed on a clad layer 11 which is formed on a GaAs substrate 10. Further, claim 2 is dependent on claim 1. As such, it is believed that as amended, claim 1 is not inconsistent with Figure 1D. Accordingly, Applicant respectfully requests withdrawal of this rejection.

Claim 6 is rejected as allegedly being inconsistent with claim 1, where the “clad” layer is “formed on the active layer.” With this Response, claim 6 has been canceled and new independent claim 12 has been added. It is believed that new claim 12 meets the requirements of 35 USC 112, second paragraph. Additionally, claims 7, 8 and 9 have been amended to depend from new claim 12. As such, Applicant respectfully requests withdrawal of the rejection of claims 7-11 and allowance of new claim 12.

**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 259052004300. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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